

Notice of Allowability

Application No.

09/289,576

Applicant(s)

ALLEN ET AL.

Examiner

Art Unit

Anne-Marie Falk, Ph.D.

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the supplemental response of 2/13/06.
2. ☒ The allowed claim(s) is/are 1-3,5,6,9,10,12 and 44.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 1/13/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Anne-Marie Falk
ANNE-MARIE FALK, PH.D
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

The amendments filed February 13, 2006 and January 13, 2006 have been entered. Claim 1 was amended in the amendment of January 13, 2006 and again in the amendment of February 13, 2006.

Accordingly, Claims 1-3, 5, 6, 9-12, 19-36, and 44 remain pending in the instant application.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gladys H. Monroy on April 26, 2006.

The application has been amended as follows:

In the Claims:

Claims 11 and 19-36 have been canceled.

1. A method for providing dopamine or a dopamine precursor to a dopamine deficient prefrontal cortex of a subject exhibiting negative symptoms of schizophrenia or cognitive defects associated with schizophrenia, comprising administering an effective amount of a cell/support complex to the prefrontal cortex of the subject's brain, wherein said cell/support complex comprises cells adhered to a support matrix, wherein said cells produce dopamine or a dopamine precursor,

wherein the cells are ~~selected from the group consisting of~~ allogeneic, non-genetically modified retinal pigment epithelial cells, ~~and chromaffin cells, and~~

wherein said support matrix is made of a material selected from the group consisting of glass, polystyrene, polypropylene, polyethylene, polyvinylidene fluoride, polyurethane, polyalginate, polysulphone, polyvinyl alcohol, acrylonitrile polymers, polyacrylamide, polycarbonate, polypentene,

Art Unit: 1632

polypentane, ~~acrylonitrile polymer~~, nylon, magnetite, natural polysaccharide, modified polysaccharide, collagen, gelatin and modified gelatin, and

wherein said negative symptoms of schizophrenia or cognitive defects associated with schizophrenia are ameliorated.

The following is an examiner's statement of reasons for allowance:

Support for the amendment to Claim 1 reciting the term "allogeneic" can be found in the specification at page 18, lines 16-24, where the specification notes that "the therapeutic cells are species matched." The term "allogeneic" is equivalent.

The rejection of Claims 1-3, 5, 6, 9-12, and 44 under 35 U.S.C. 112, first paragraph, is withdrawn in view of Applicants' arguments submitted 2/13/06 and 1/13/06 and the Declaration of Dr. Cornfeldt submitted 2/13/06.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Upon entry of the above amendment, Claims 1-3, 5, 6, 9, 10, 12, and 44 are allowable.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic

Art Unit: 1632

Business Center will notify applicants of the resolution of the problem within 5-7 business days.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne-Marie Falk whose telephone number is (571) 272-0728. The examiner can normally be reached Monday through Thursday from 10:00 AM to 8:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached on (571) 272-0735. The central official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Anne-Marie Falk, Ph.D.


ANNE-MARIE FALK, PH.D
PRIMARY EXAMINER